

MATTER OF KWUN
In Bond Proceedings

A-15997430

Decided by Board November 21, 1969

Service Motion January 8, 1970

Decided by Board February 13, 1970

Once an alien is notified to surrender for deportation and is taken into custody for that purpose, the special inquiry officer lacks jurisdiction pursuant to 8 CFR 242.2(b) to entertain the alien's appeal from the District Director's bail determination. Under such circumstances, appeal from the District Director's determination lies only with the Board of Immigration Appeals.

ON BEHALF OF RESPONDENT:
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ON BEHALF OF SERVICE:
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(Brief filed)

BEFORE THE BOARD
(November 21, 1969)

Respondent, an alien detained by the District Director for deportation, appeals from an order of a special inquiry officer refusing to disturb the District Director's decision to continue respondent in custody notwithstanding the pendency of an action for judicial review. The special inquiry officer ruled that he lacked power under 8 CFR 242.2(b) to grant the relief requested, and that, even if he possessed that power, relief should be denied in the exercise of discretion. We conclude that the special inquiry officer erred in both regards and we sustain the appeal.

From the special inquiry officer's order and the statements made at oral argument, as well as from our two prior orders in respondent's case, the following facts appear to be undisputed: Respondent is an alien crewman who was found deportable after a